

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RONALD PHIPPS,

Plaintiff,

v.

9:10-CV-1588 (TJM/DEP)

DR. SOHAIL A. GILLANI,

Defendant.

THOMAS J. McAVOY
Senior United States District Judge

DECISION and ORDER

I. INTRODUCTION

This pro se action brought pursuant to 42 U.S.C. § 1983 was referred by this Court to the Hon. David E. Peebles, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c). In his July 23, 2013 Report-Recommendation and Order, Magistrate Judge Peebles recommends that Defendant's motion for summary judgment (Dkt. # 36) be GRANTED, and that Plaintiff's complaint in this action be DISMISSED for failure to exhaust available administrative remedies before commencing suit. No objections to the Report-Recommendation and Order have been filed, and the time to do so has expired.¹

¹The Docket indicates that the Report-Recommendation and Order was served on Plaintiff at his last known address at Clinton Correctional Facility but was returned as "undeliverable" with the notation on the envelope: "Not Here." A member of the Court Clerk's Office staff then reviewed the New York State Department of Corrections and Community Services (DOCCS) informational website looking for any forwarding address and learned only that Plaintiff was released from DOCCS to "Another Agency".

(continued...)

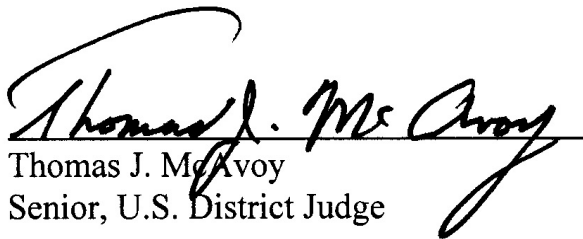
II. DISCUSSION

After examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice.

III. CONCLUSION

Accordingly, the Court **ADOPTS** the Report-Recommendation and Order [dkt. # 38] for the reasons stated therein. Defendant's motion for summary judgment [dkt. # 36] is **GRANTED**, and the complaint is **DISMISSED IN ITS ENTIRETY**.
IT IS SO ORDERED.

Dated: September 16, 2013



Thomas J. McAvoy
Senior, U.S. District Judge

¹(...continued)

The Local Rules requires all pro se litigants to "immediately notify the Court of any change of address," NDNY LR 10.1(c)(2), and clearly advises parties that "[f]ailure to notify the Court of a change of address in accordance with L.R. 10.1(c)(2) may result in the dismissal of any pending action." NDNY LR 41.2(b). In light of Plaintiff's failure to advise the Court of a forwarding address, the Court deems the Report-Recommendation and Order as unopposed.